

SAITANA, Ramon

Reg. No. 17036-069

Appeal No. 401541-R1

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Part B - Response


You appeal the decision of the Warden at FCI Schuylkill to deny your request for credit on your federal sentence for time served in state custody. You cite Ruggiano v. Reish as the authority permitting the award of this credit. You request credit on your federal sentence pursuant to this authority.

A review of your appeal reveals you were sentenced by the United States District Court, District of Puerto Rico, on March 8, 1999, on Dkt. 98-00175, to 188 months for Possession with Intent to Distribute Heroin and Cocaine, to run concurrent with your state sentence. On September 9, 1999, you were again sentenced in the United States District Court, District of Puerto Rico, in Dkt. 97-229, to 84 months for Possession with Intent to Distribute in Excess of One Kilogram of Heroin and in Excess of Five Kilograms of Cocaine, to run concurrent with the sentence imposed in Dkt. 98-00175, and with the sentence imposed in the local court.

Your reliance on Ruggiano is misplaced. In Ruggiano, the sentencing court tried to order an adjustment under Sentencing Guidelines 5G1.3 for time spent serving a state sentence. In your case, the court ordered the federal sentences to run concurrent to the state. There is no reference to § 5G1.3 in either of your sentences. The Bureau of Prisons followed this order and computed each of your federal sentences to begin running on the date of imposition. To grant credit to your federal sentence for the same time served in state custody would be contrary to 18 U.S.C. § 3585(b) since credit for the period in question was awarded towards your state sentence. Accordingly, your appeal is denied.

If you are dissatisfied with this response, you may appeal the General Counsel, Federal Bureau of Prisons. Your appeal must be received in the Administrative Remedy Section, Office of General Counsel, Federal Bureau of Prisons, 320 First Street, N.W. Washington, D.C. 20534, within 30 calendar days of the date of this response.

Date: April 11, 2006


D. SCOTT DODRILL
Regional Director

SANTANA, Ramon Ortiz
Reg. No. 17036-069
Unit 3B
Remedy ID # 401541-F2

X

Part B - RESPONSE

This is in response to your request dated February 7, 2006. You requested credit for time served on your federal sentence from October 17, 1997 through March 9, 1999.

Your 188 month aggregate sentence began to run on March 8, 1999, the date the first sentence was imposed, making it concurrent with the local sentence you were serving. The Bureau of Prisons designated the Puerto Rico Department of Corrections as your place of service of sentence to effectuate this. Because you were serving the local sentence during the period of time you are seeking credit for, it cannot be awarded as prior custody credit on the federal sentence. Title 18 U.S.C. 3585(b), states, "A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences as a result of the offense for which the sentence was imposed or as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed that has not been credited against another sentence".

Documentation in your file has been reviewed to determine whether or not the Court intended that your sentences receive a downward adjustment under the U.S. Sentencing Guidelines. There is no reference to a downward adjustment under the Guidelines in case number 98-175, the 188 month sentence. In case number 97-229, there is no reference to a departure under the Guidelines, however, it appears that you were sentenced substantially below the Guideline range per a plea agreement that was entered in your case. The Court did not order that you receive credit for time served on the state sentence. Based on the foregoing, Ruggiano v. Reish does not apply to your case.

Based on the above information, your Request for Administrative Remedy is denied.

If you are not satisfied with this decision, you may appeal to the Regional Director, Federal Bureau of Prisons, U.S. Customs House, Second and Chestnut Streets, Philadelphia, Pennsylvania, 19106, within 20 calendar days of the date of this response.

Ronnie R. Holt
Ronnie R. Holt, Warden

2/17/06
Date